

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HP TUNERS, LLC, a Nevada limited  
liability company,

Plaintiff,

v.

KEVIN SYKES-BONNETT, SYKED ECU  
TUNING INCORPORATED, a Washington  
corporation, and JOHN MARTINSON

Defendants.

Cause No. 3:17-cv-05760 BHS

**DEFENDANTS' NOTICE OF  
INTENT AND ABILITY TO  
PROCEED**

This Court, in its Order Denying Defendant's Motion for Partial Summary Judgment (Dkt. No. 212) states that, "it appears that this matter is nowhere near ready for trial." and that, "the parties have informally contacted the Court regarding problems associated with preparing a joint trial brief, which is unusual in that most parties can at least agree on what the pending trial will entail."

Defendants respectfully request that this Court take notice that it was *Plaintiff*, not Defendants, that did not timely comply with this Court's Order (Dkt. No. 131) requiring timely service of a proposed pre-trial order, and that it was *Plaintiff*, not Defendants, who "informally contacted the Court regarding problems associated with preparing a joint trial brief."

Furthermore, it has been Plaintiff, not Defendants, who has sought extensions of the trial date in the past (See Dkt. Nos. 53 and 57) and continues to complain about discovery long after the discovery cut-off deadline (See Dkt. Nos. 203, 211 and 213).

1 In view of the foregoing, Defendants respectfully advise the Court that they are fully  
2 prepared and able to try this case as scheduled and request that trial *not* be delayed.

3 Defendants' business and lives have been, and continue to be, disrupted by this action  
4 that has been pending for more than two years. It is time to bring this matter to an end.  
5 Defendants are in no way responsible for the "problems associated with preparing a joint trial  
6 brief," and are in no way responsible for delaying trial.

7 Defendants respectfully request that this Court maintain the scheduled trial date and  
8 allow this case to proceed to trial as scheduled on October 29, 2019.

9 Such action by the Court is respectfully solicited.

10 Dated October 5, 2019.

Respectfully submitted,

11 /s/ Philip P. Mann

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Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify on the date indicated below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties who have appeared in this matter.

DATED: October 5, 2019

/s/ Philip P. Mann